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JUDGE-PICKING AND JURY PACKING.

Some Timely Observations on Two Notable Evils in Our Judicial System.

In the light of recent criminal trials in the Carolinas the editor would like to submit a few remarks from the point of view of a layman who does not understand anything about the law although he has an deep and abiding reverence for Law. It has sometimes seemed to us that there is a difference between the majesty and dignity and glory of Law and what is called "the law," law as she is practised, in other words.

It seems to us that the custom of picking the right judge is something of an abuse. As we understand it the cases that are to be tried are arranged on a calendar for each term of court. And then, if the judge at that term is known to be severe in his sentences and possessed of certain old-fashioned notions about vindicating the offended majesty of law, then it invariably happens that somebody who is essential to the case turns up sick and there is a physician's certificate regularly signed to prove it. But at the next term there comes along a judge whose heart does him credit everywhere except on the judicial bench, and nobody is sick, or if that happens, the defendants try to get along without their most important witness and the case proceeds.

Now it seems to us that the lawyers ought to make it a rule among themselves to take the chances on the judge. It might be even made a point of honor, that sickness should be bona fide and that a put up job as to that or any of the various ways of continuing a trial should be so frowned down upon by the legal fraternity that they should never be attempted.

In the Tillman case the expected has happened. According to the best plea of the criminal himself, the fact that Gonzales put his thumb in his overcoat pocket as he tried to avoid meeting Tillman cost him his life. And the case was removed from Columbia to Lexington against the protests of the State, by Judge Gary. Judge Gary, according to the testimony of the Columbia State is known in the Tillman household as "Cousin Frank." The News has already told by what process Judge Gary was chosen, the personal and political friend of the Tillmans, to preside at the Lexington court, there by the petition of a bar practically all retained for Tillman.

Also it will be remembered that the Haywood case was continued. It would have come before Judge Justice, even after the reasonable delay that is always given when the lawyers ask for it, and which it is presumed is wanted by the defense that men may lose their keen sense of the wrong that the accused has done. We are not making the charge that the defendant's lawyers should have been over-anxious for justice for their client. That would be too much to ask for human nature. But they should not have objected to Judge Justice on the ground that they might get justice. We forget what the excuse was, but that hardly makes any difference.

And we do not think that the dispatches from the scene of the trials indicated that in picking their judges the defense in either case displayed their want of good sense. We only make the point, that to a layman, the high ideals of Law, as they appear to him, should disbar any lawyer who attempts to have his case tried by a complaisant judge, and continued when the judge was known to be just.

And then the jury-packing business, it seems to us, has been carried to an extreme. Trial by jury is a phrase that has an historical meaning to the Anglo-Saxon who knows the upward struggles of his race against oppression. But the way the jury is selected is not too severely satirized by Mark Twain when he said the only difficulty about it was that it was sometimes hard to find twelve men who never read anything and did not know anything. We venture to say that the attorneys for the defense in either Lexington or Raleigh knew pretty well how every possible juror stood on the Haywood case, or in the Tillman case. It seems to us again, that the laws should be so framed as to secure juries composed at least of average men, intelligent and incorruptible. In North Carolina the defense has a big advantage over the State in packing the jury. The jury system is all right. It is the jury as she is packed that is all wrong. And generally the more important the case is, the lower is the average of the jury.

So the current opinion in the two States that neither Haywood nor Tillman would suffer any penalty for their dastardly deeds of blood, having been justified by the events, we are inclined to point what seems to us to be the lesson.

It is said that it is impossible to convict anybody of wealth or prominence in either Carolina of the crime of murder. But we do not believe that the truth of this statement lies in the fact that anybody is bribed, though unscrupulousness is everywhere. The money does not buy either judge or jury. The prominence of the accused does not overawe either, but that prominence may be a subtle bribe to judges elected through political machines, and the prominence is a means of getting the necessary money. But the money is used in the legitimate employment of the ablest lawyers. That is the advantage that the rich man has over the poor man in the court. We submit that this initial advantage should not be increased indefinitely, by the successful efforts of the able lawyers to pick the judge and pack the jury. There are enough legal technicalities now which a good array of able lawyers can find. But let's play fair. Let a stop be put to this judge-picking and jury-packing business.—Charlotte News.